

Sri G. VENKATAI GOWDA.—May I know whether these officers were promoted and the promotion lists have been approved by the P.S.C. ?

Sri C. M. POONACHA.—The matter is pending with the P.S.C. and we are awaiting their recommendation.

Sri G. VENKATAI GOWDA.—May I know whether the cases of the officers who have been promoted were referred to the P.S.C. ?

Sri C. M. POONACHA.—These posts belong to the State cadre. They are referred to the P.S.C. for their concurrence and I do not know at what stage the matter is. Their concurrence will be obtained for all these posts.

Sri C. M. ARUMUGHAM.—In answer to supplementary question (e) it is stated that two P. I.s belong to the Scheduled Castes and their case will be given due consideration. May I know whether these people are not in the State Police service ?

Sri C. M. POONACHA.—They are in the State Police service. They are still serving.

Sri C. M. ARUMUGHAM.—Then, may I know what is it that is under consideration ?

Sri C. M. POONACHA.—The consideration is for promotion to A. S. P.'s cadre.

ಶ್ರೀಮತಿ ಕೆ. ಎಸ್. ನಾಗರತ್ನಮ್ಮ.—ಈ ಪೆಡ್ಯೂಲು ಕ್ಯಾನ್ಸ್ ಪಂಗಡದವರಿಗೆ ಮಾತ್ರ ಈ ಮೆರಿಟ್ ಆಗಲಿ ಎಫಿಷಿಯೆಂಟು ಸರ್ವಿಸ್ ಆಗಲಿ ಒಂದೂ ಕೌಂಟಿ ಆಗುವುದಿಲ್ಲ ಅಲ್ಲವೆ ?

ಶ್ರೀ ಸಿ. ಎಂ. ಪುಣಚ್ಚ.—ಪೆಡ್ಯೂಲು ಕಾನ್ಸ್ ಆಗಲಿ ಯಾವ ಪಂಗಡಕ್ಕೆ ಸೇರಿದವರಾಗಲಿ ಅವರು ಗಳ ಮೆರಿಟ್ ಎಂದರೆ ಅರ್ಹತೆಗಳನ್ನು ಗಣನೆಗೆ ತೆಗೆದುಕೊಂಡು ಅವರ ಪ್ರಮೋಷನ್ ಗಳನ್ನು ನಿರ್ಣಯಿಸಲಾಗುತ್ತದೆ.

Mr. SPEAKER.—Question hour is over.

ADJOURNMENT MOTION

Re: Death of Smt. Muniamma.

Mr. SPEAKER.—On the 6th instant Hon'ble Member Sri Y. Veerappa and two other Hon'ble Members, namely, Sri C. J. Muckannappa and Sri B. K. Puttaramaia, gave notices of adjournment motions relating to the

conduct of the Seshadripuram Police in respect of one Shrimathi Muniamma and her subsequent death in the Victoria Hospital. On the 10th instant, after I read out the notices of these adjournment motions, the Hon'ble Home Minister stated that the cause of death of Shrimathi Muniamma was being enquired into under the Criminal Procedure Code. The question therefore arose for decision as to whether such an enquiry would preclude consideration of these adjournment motions in the House and I requested the Advocate General to speak on this issue. On the 11th instant the Advocate General expressed his views on the question of *sub judice* in relation to these motions. He stated that an enquiry was being conducted into the cause of death of Shrimathi Muniamma by a Magistrate under section 176 of the Criminal Procedure Code. He also argued on the question of whether an enquiry under section 176 of the Criminal Procedure Code would preclude consideration of any matter by the House. He has since also written to me furnishing some recent decisions bearing on the point. I however learn that the Magistrate has concluded his enquiry.

(Addressing the Hon'ble the Home Minister): I take that the Magistrate has concluded the enquiry ?

Sri C. M. POONACHA (Minister for Home Affairs and Industries).—He has not concluded his enquiry.

Mr. SPEAKER.—Yesterday I was given to understand by some highest authority that the enquiry was complete.

Sri C. M. POONACHA.—I made further enquiries and learn that the investigating Magistrate is still conducting enquiries.

Mr. SPEAKER.—Then, I will have to reserve my ruling. I was given to understand by a high authority that the enquiry is complete. Now I learn that the enquiry is still going on. So, I will give the ruling tomorrow.

ಶ್ರೀ ಬಿ. ಕೆ. ಪುಟ್ಟರಾಮಯ್ಯ.—ಸ್ವಾಮೀ, ಇವತ್ತೇ ಕೊಡುತ್ತೇನೆಂದು ಹೇಳಿದ್ದರಿಂದ . . .

(At this stage there were many interruptions).

Mr. SPEAKER.—I will have to understand whether enquiry under Section 176 is over. I will give my ruling today only after 10-30 A.M.

Sri A. BHEEMAPPA NAIK (Challakere).—Your ruling need not depend upon whether enquiries are complete or not.

Mr. SPEAKER.—No, no.

Sri A. BHEEMAPPA NAIK.—The concerned Minister says that an enquiry is still going on. The ruling to be given need not depend upon the fact whether an enquiry is still going or not.

Mr. SPEAKER.—The point is that if the enquiry is over a new situation arises. But if the enquiry is still on, the situation is quite different. I was given to understand yesterday that the enquiry was over and on that basis I have prepared the ruling. Now if the enquiry is on, a different situation arises and therefore I have to give an exhaustive ruling.

Sri A. BHEEMAPPA NAIK.—Then on that basis you are giving the ruling.

Sri J. B. MALLARADHYA (Nanjangud).—Whether the enquiry under Section 176 is completed or not, I do not think the decision of the Chair would be affected by it. Irrespective of whether the enquiry under Section 176 is over or is still pending the decision of the Chair remains the same, in view of the latest decisions on the subject.

Mr. SPEAKER.—If the enquiry is proceeding, my ruling should concern whether the question is *sub judice* or not. Now I learn that the question is still under enquiry by the Magistrate under Section 176.

Sri J. B. MALLARADHYA.—How does it affect the decision of the Chair—whether the enquiry is proceeding or not.

Sri C. J. MUCKANNAPPA (Gubbi).—What the Home Minister stated just now, is not relevant to your decision. Why should the Chair, first of all, seek any clarification from the Home Minister?

ಅಧ್ಯಕ್ಷರು.—ನಾನು ಎರಡು ಬೇಸಿಸ್ ಮೇಲೆ ಕೆಲಸ ಮಾಡುತ್ತಿದ್ದೇನೆ. 176ನೆಯ ಸೆಕ್ಷನ್ ಪ್ರಕಾರ ಎಕ್ ಕ್ವೆಸ್ಚನ್ ಪೂರ್ವವಾಗಿದ್ದರೆ ಒಂದು ತರಹ ರೂಲಿಂಗ್ ಕೊಡಬೇಕಾಗುತ್ತದೆ. ಎಕ್ ಕ್ವೆಸ್ಚನ್ ನಡೆಯುತ್ತಿದ್ದರೆ

ಈ ವಿಷಯ ನಡೆ ಜುಡಿಸ್ ಹೌಡ್ ಅಲ್ಲವೆ ಎಂಬ ವಿಷಯ ದ್ವಿ ರೂಲಿಂಗ್ ಕೊಡಬೇಕಾಗುತ್ತದೆ. 10½ ಗಂಟೆಗೆ ನನ್ನ ರೂಲಿಂಗ್ ಕೊಡುತ್ತೇನೆ.

ಶ್ರೀ ಬಿ. ಕೆ. ಫಟ್ಟರಾಮಯ್ಯ (ಚನ್ನಪಟ್ಟಣ).—ಇತರರಿಗೆ ಕ್ಲಾರಿಫಿಕೇಷನ್ ಅವಕಾಶ ಕೊಟ್ಟ ಮೇಲೆ ನಮಗೂ ಅವಕಾಶ ಕೊಡಬೇಕು.

Sri U. M. MADAPPA (Chamarajanagar).—On a point of information, Sir, ಅಡ್ವೋಕೇಟ್ ಜನರಲ್ ಒಂದು ಕಾಗದ ಬರೆದಿದ್ದಾರೆಂದು ತಿಳಿಯಿತು. ಅದು ನಿಜವಾಗಿದ್ದರೆ ಅದನ್ನು ಸಭೆಗೆ ತಿಳಿಸುವುದು ಉತ್ತಮವೆಂದು ಹೇಳುತ್ತೇನೆ. ಅಡ್ವೋಕೇಟ್ ಜನರಲ್ ಕೂಡ ಈ ಸಭೆಯ ಸದಸ್ಯರಾಗಿದ್ದಾರೆ.

Sri N. HUCHAMASTHY GOWDA (Chandrasekharapura).—On a point of order, Sir. ಈಗ 10½ ಗಂಟೆಗೆ ರೂಲಿಂಗ್ ಕೊಡುವುದಾಗಿ ತಾವು ಹೇಳಿದ ಮೇಲೆ ಈ ವಿಷಯದ ಮೇಲೆ ಚರ್ಚೆಯಾಗುವುದು ಸರಿಯೇ? ಅದಕ್ಕೆ ಅವಕಾಶವೇ?

[As several Members held the floor and spoke simultaneously, the Speaker directed that the proceedings need not be recorded. Later, he permitted Sri Mallaradhy to speak.]

Sri J. B. MALLARADHYA.—Sir, you just said that you are about to give a ruling based on some advice given by the Advocate General, subsequent to the advice he had given while he was in this House. If that is so, we would like to know the cases he had quoted and the reasons behind his advice.

Mr. SPEAKER.—That question arises only after I give the ruling, taking into consideration the fact that the proceedings under Section 176 are still on. After I give the ruling, if Members have any doubt, they can raise them. But there is no occasion for such a thing at this stage.

Sri J. B. MALLARADHYA.—My difficulty is that the Advocate General was given a full opportunity, for nearly one hour, to state the case and quote decisions. If after he left the House, he has quoted more decisions, let us have them.

Mr. SPEAKER.—You are simply over-anxious.

Sri J. B. MALLARADHYA.—Not at all.

Mr. SPEAKER.—I still say that you are over-anxious. After hearing my ruling on the present basis, if you have any doubt, you can raise it.

Sri Y. VEERAPPA.—What has your decision to do with the question whether proceedings under Section 176 is pending or not?

Mr. SPEAKER.—Everything. I have been telling and telling the Member that I have to differentiate between two situations: One is if the enquiry under Section 176 is over, my ruling would be different. If 176 is still on, my ruling would be on the question whether the matter is *sub judice*. If the proceedings under 176 are over, my ruling would be different, because then a new situation arises.

Sri V. P. DEENADAYALU NAIDU (Cubbonpet).—Sir, the Chair was pleased to say that there is another higher authority which had told him that the proceedings under Section 176 in this case are over. I would like to know which is the authority higher than the Home Minister. Secondly, I would like to point out that this question has been discussed on the floor of this House and certain matters were squarely placed before the Chair for his ruling. Now I am unable to understand how the Chair could entertain extraneous information, on which it would give a ruling. The ruling has therefore to be based on what transpired on the floor of the House and if the Chair has come into possession certain other information, of which the House was unaware when it discussed the matter, then I would very humbly submit that that information must be supplied to the House.

Mr. SPEAKER.—The Speaker cannot over-ride certain facts. After all, the Speaker has to ascertain facts, even if they are to be obtained from outside the House. In this case, I am given to understand that the proceedings under Section 176 are over. Of course, as to who gave this information, is an irrelevant matter. It must necessarily have come from an authority that has complete control over the situation. Now the Government has given the information that the proceedings are still going on. Nobody need bother about it now. After I give the ruling, Members may raise doubts if any.

The House then adjourned for recess at Ten of the Clock and reassembled at Thirty Minutes past Ten of the Clock.

[Mr. SPEAKER in the Chair]

Mr. SPEAKER.—On the 6th instant Hon'ble Member, Sri Y. Veerappa and two other Hon'ble Members, namely, Shri C. J. Muckannappa and Sri B. K. Puttaramiya, gave notice of adjournment motions relating to the conduct of Seshadripuram Police in respect of one Smt. Muniamma and her subsequent death in the Victoria Hospital. On the 10th instant, after I read out the notice of these adjournment motions, the Hon'ble Home Minister stated that the cause of death of Smt. Muniamma was being enquired into under the Criminal Procedure Code. The question therefore arose for decision as to whether such an enquiry would preclude consideration of these adjournment motions in the House and I requested the Advocate General to speak on this issue. On the 11th instant the Advocate General expressed his views on the question of *sub judice* in relation to these motions. He stated that an enquiry was being conducted into the cause of death of Smt. Muniamma by a Magistrate under Section 176 of the Criminal Procedure Code. He stated that while Art. 194 of the Constitution conferred on the members absolute privilege of freedom of speech and no action would lie against any member for contempt of court or defamation or any other kind of action in respect of speeches made on the floor, nevertheless the House had itself imposed certain restrictions on this freedom of speech. One of them was to shut out debate or speeches in regard to any matter which was under adjudication by a court of law having jurisdiction in part of India. He next expressed the view that what was ruled out of debate by this limitation under the Rules of Procedure must be treated as co-extensive with whatever was treated as contempt under the Contempt of Courts Act. Speaking in particular as to the nature of proceedings under Section 176 of the Criminal

Procedure Code, the learned Advocate General referred to certain decisions particularly A.I.R. 1928-Bombay, page 300 and A. I. R. 1940 Rangoon, and stated that proceedings under section 176 of the Criminal Procedure Code are judicial proceedings and any comment in respect of them would amount to contempt. He next advanced the view that as laid down in I.L.R. 1939—Madras and A.I.R. 1943 Lahore, an offence of contempt may be committed even if there is no proceeding or cause actually pending, provided that such proceeding or cause is imminent and the writer of the offending publications either knew it to be imminent or should have known that it was imminent.

The learned Advocate General has subsequently written to me to say that he has come across a more recent decision of the Punjab High Court in which it has been held that a Magistrate holding an enquiry under section 176 of the Criminal Procedure Code cannot be considered to be performing the functions of a Court of Law. He has stated in his letter that any comment outside the House not being contempt in the circumstances there is no restriction of comment within the House. In view of this decision and the view now expressed by the learned Advocate General, I must hold that for the purpose of rule 40 (f) an enquiry under section 176 of the Criminal Procedure Code cannot be considered to be a matter which is under adjudication by a court of law. The objection of *sub judice* will not therefore apply. The general question of whether what should be excluded from the debate would be whatever would amount to contempt of court, need not be either examined or decided on the present occasion. This would require much more detailed examination particularly as the composition and powers of the Legislature under the Constitution require that fullest freedom of speech should be conceded to members and any limitation on this freedom which is essential for the proper discharge of their functions and duties should be construed very strictly. For instance, while in some

cases it has been held to be contempt even if a proceeding or cause is not actually pending but is imminent, the extension of this principle to the debates in this House may really lead to such curtailment as may interfere with the proper discharge of the duties by members. However as I stated it is not necessary for me to decide this issue on this occasion.

While the objection of *sub judice* may not apply, I am afraid that there are other rulings of our own Assembly as well as of other Legislatures which prevent me from accepting this Notice. There are long series of rulings to the effect where other parliamentary opportunities are available very soon for raising the matter which is the subject matter of adjournment, such adjournment motions are inadmissible. Hon'ble Members will have sufficient opportunity during debate on the Budget to raise this issue. There is also a short notice question which is pending and is likely to be taken up soon. In view of these opportunities, the adjournment motions become inadmissible and I hold that they are out of order. I must also add at the end that today we are discussing Vote on Account and Members are at full liberty to make their comments on this incident.

Members' Representations.

ಶ್ರೀ ಕೆ. ಕೆಂಚಪ್ಪ (ಪಿರಿಯೂರು).—ವೋಟ್ ಆನ್ ಅಕೌಂಟ್ ಬಂದಾಗ ನಿನಗೆ ದಿವಸ

ಅಧ್ಯಕ್ಷರು.—ನನ್ನ ಒಪ್ಪಿಗೆಯನ್ನು ಪಡೆದುಕೊಂಡರೆ ಮಾತನಾಡಲು ಅವಕಾಶ ಕೊಡುತ್ತೇನೆ. ನನ್ನ ಚೇಂಬರಿನಲ್ಲಿ ಬನ್ನಿ. ಒಪ್ಪಿಗೆಯನ್ನು ತೆಗೆದುಕೊಂಡು ಆಮೇಲೆ ಮಾತನಾಡಿ.

ಶ್ರೀ ಕೆ. ಕೆಂಚಪ್ಪ.—ಈ ಹೌಸ್‌ನಲ್ಲಿ ಕೆಲವು ವಿಚಾರ ಹೇಳಬೇಕು.

ಅಧ್ಯಕ್ಷರು.—ನಭೆಯಲ್ಲಿ ಅನುಮತಿಯನ್ನು ಕೊಡುವುದಿಲ್ಲ. ಅದು ತೊಡಕಿಗೆ ಬೀಳುತ್ತದೆ. ಬಹಳ ಜನ ಹೇಳಿಕೆಯನ್ನು ಕೊಡಲು ಅನುಮತಿ ಕೊಡಿ ಎಂದರೆ ಅದರಿಂದ ಏನೂ ಉಪಯೋಗ ಆಗುವುದಿಲ್ಲ. ನನ್ನ ಚೇಂಬರಿನಲ್ಲಿ ಬಂದು ಮಾತನಾಡಿ ಅನುಮತಿಯನ್ನು ಪಡೆಯಬಹುದು.

ಶ್ರೀ ಕೆ. ಕೆಂಚಪ್ಪ.—ವಿರೋಧಪಕ್ಷದವರ ಎಲ್ಲರ ಪರವಾಗಿ ನನ್ನ ಅಸೆಂಬ್ಲಿ ಮೆಂಬರುಗಳಿಗೆ ಇರತಕ್ಕ ಹಕ್ಕು ಬಾಧ್ಯತೆಗಳಿಗೆ ಚ್ಯುತಿ ಬಂದಿರುವ ವಿಚಾರದಲ್ಲಿ ಒಂದು ಅಪ್ಪಿಕೇಷನ್ ಕೊಡುವವರಾಗಿದ್ದೇವೆ. ಒಂದು ಪ್ರಿವಿಲೇಜ್ ಮೋಷನ್ ಇದೆ.